

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-212-S - ORDER NO. 2005-29
JANUARY 18, 2005

IN RE: Application of Development Service, Inc. for) ORDER RULING ON
Approval of a New Schedule of Rates and) MOTION
Charges for Sewerage Service Provided to)
Residential and Commercial Customers in all)
Areas Served.)

This matter comes before the Public Service Commission of South Carolina (the Commission) for a ruling on a three-part Motion made by counsel for Development Service, Inc. (DSI or the Company) at the hearing on the matter, which was held on January 5, 2005. The first part of the Motion was that the Commission be allowed an extra five (5) days past the six-month time period for publishing an order in a rate case, consistent with the provisions of S. C. Code Ann. Section 58-5-240 (D) (Supp. 2004). Second, counsel for DSI moved for consolidation of the DSI and Bush River Utilities sewer dockets, so that the evidence presented in both dockets would be available for consideration during deliberation in both dockets. Third, counsel moved for an extension of the six-month time period for issuing an Order past the additional five (5) days allowed in S.C. Code Ann. Section 58-5-240 (Supp. 2004). Because of the reasoning stated below, we grant parts one and two of the Motion, but we deny the third part.

With regard to the first and second parts of the Motion, we would note that under Section 58-5-240 (D) (Supp. 2004), should the Commission determine that it cannot, due

to circumstances reasonably beyond its control, issue an Order ruling on a rate case under the chapter within the six-month period prescribed, the Commission may, by order, extend the six-month period for an additional five (5) days. We think the additional five (5) days is warranted under the circumstances of the present case and grant the additional five (5) days.

We also grant consolidation of the dockets so that evidence in both dockets can be considered for each docket. Clearly, the DSI docket and Bush River Utilities docket (DN 2004-259-S) are closely related. According to the testimony presented at the DSI hearing on January 5, 2005, DSI, as a collection system only, collects wastewater and transmits it through its collection system to Bush River, which treats the wastewater prior to discharge and disposal. Bush River charges DSI a monthly “wholesale rate” for treatment of DSI’s wastewater. The monthly cost of treatment charged by Bush River represents DSI’s primary operating expense. “As Bush River goes, so does DSI.” See prefiled direct testimony of Keith Parnell, President and Operations Manager of DSI at 1-2. Accordingly, it is reasonable to consider the testimony and exhibits in the Bush River hearing set for January 20, 2005, in making our decision in the DSI case (and, for that matter, the testimony and exhibits in DSI case in making our decision in the Bush River case.)

In addition, since the Bush River hearing is to be held on January 20, 2005, and the DSI order is presently due for issuance on January 28, 2005, we do not believe that this allows sufficient time for consideration and preparation of a final decision in the DSI case, since we will also be considering the Bush River evidence in our deliberations. We

believe that this constitutes the “circumstances reasonably beyond its control” cited in Section 58-5-240. Accordingly, the extra five days allowable under the statute is certainly reasonable under the circumstances, as is the granting of consolidation of the dockets.

However, the third portion of the Motion must be denied. We do not believe that this Commission has the authority to extend the six-month time period for issuing an Order past the five (5) additional days allowed by S.C. Code Ann. Section 58-5-240. This was pointed out specifically in *Kiawah Property Owners Group v. Public Service Commission of South Carolina and Kiawah Island Utility Company, Inc.*, 359 S.C. 105, 597 S.E. 2d 145 (2004). In that case, the Kiawah Property Owners Group (KPOG) asserted that this Commission should have stayed a decision on a rate application by Kiawah Island Utility Company, Inc. (KIU) until the Supreme Court issued its opinion in another appeal by KPOG of another Commission decision in another KIU rate case. The Court rejected KPOG’s assertions, and held that, under S.C. Code Ann. Section 58-5-240 (D), this Commission only has authority to stay issuance of a Commission order for five days beyond the six-month period allowed for issuing an order in a rate case. 597 S.E. 2d at 149. We believe that this admonition applies to the third part of the Motion before this Commission. Accordingly, we deny extension of the six-month period to issue the Order in this Docket beyond the five day extension granted above.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. S.C. Code Ann. Section 58-5-240 (D) (Supp. 2004) states that should the Commission determine that it cannot, due to circumstances reasonably beyond its control, issue an Order ruling on a rate case under the chapter within the six-month period

prescribed, the Commission may, by order, extend the six-month period for an additional five days.

2. The additional five (5) days for issuing the Order in this docket is reasonable, since we are going to consider the evidence presented in an additional hearing (Bush River) to be held on January 20, 2005. The original order due date of January 28, 2005, in this Docket is too close to this hearing date for proper consideration. This constitutes circumstances reasonably beyond this Commission's control. Accordingly, the additional five (5) days for order issuance in this Docket is granted. The DSI Order shall be issued on February 2, 2005.

3. Consolidation of this docket with the Bush River Utilities docket is also reasonable and is granted. The dockets are very much related. Accordingly, the evidence presented in the Bush River Docket may be used in our deliberations in the DSI case, and the evidence in the DSI docket may be used in our ultimate deliberations in the Bush River case.

4. The extension of the six-month period to issue the DSI Order beyond the five (5) days granted above is denied, based on *Kiawah Property Owners Group, supra*. This case does not allow us to extend the six-month time period beyond the five extra days granted above.

5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice Chairman

(SEAL)